

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MAURICE JAMES SPEARMAN,

Plaintiff,

Case No. 07-10364

HON. BERNARD A. FRIEDMAN

vs.

L.SMITH and K.DUNTON,

Defendants.

**ORDER ACCEPTING AND ADOPTING MAGISTRATE JUDGE'S OPINION AND
ORDER, OVERRULING PLAINTIFF'S OBJECTIONS, AND GRANTING
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

I. Introduction

On April 2, 2007 Magistrate Judge Virginia M. Morgan issued a Report and Recommendation ("R and R") in which she recommended that the Court grant Defendants' Motion for Summary Judgment.

II. Analysis

Plaintiff filed a timely objection to the R and R. Plaintiff's objections, however, are not persuasive, and the Court, having had an opportunity to fully review this matter, believes that Magistrate Judge Morgan has reached the correct conclusions for the proper reasons.

Plaintiff's objections are without merit. Plaintiff first objects, in various forms throughout objections nos. 1 and 2, that Magistrate Judge Morgan was incorrect in stating that Plaintiff's affidavit does not meet the requirements of Fed. R. Civ. P. 56(e). However, Magistrate Judge Morgan correctly explained in her R and R that Plaintiff's affidavit merely repeats the allegations of his complaint, and fails to come forward with any facts showing a genuine issue for trial.

Next, Plaintiff objects that Magistrate Judge Morgan overlooked Smith's claim in her affidavit that she was the accounting assistant at the correctional facility. Plaintiff fails to make any arguments regarding the relevance of this alleged "oversight." However, the Court assumes that Plaintiff is attempting to argue that Smith's position as an accounting assistant somehow affects his claims. Plaintiff fails to recognize that Magistrate Judge Morgan specifically referred to Smith's affidavit statement that she had no specific duties with regard to Plaintiff's account and court orders, and did not have any knowledge of Plaintiff's specific problems. Accordingly, Magistrate Judge Morgan found, Plaintiff failed to demonstrate a lack of personal involvement by Smith in Plaintiff's retaliation claim. Magistrate Judge Morgan's conclusions were correct.

Finally, Plaintiff argues that Magistrate Judge Morgan was incorrect in her conclusion that Defendant Dunton did not have authority or final approval regarding Plaintiff's denial of a transfer. However, Plaintiff himself acknowledges in his objections to the R and R that Dunton is not the final decision maker regarding Plaintiff's transfer. As Magistrate Judge Morgan explained, even if Dunton partook in the decision of whether or not to transfer Plaintiff, this in itself is not enough for a finding of causation. Shehee v. Luttrell, 199 F.3d 295 (6th Cir. 1999); Cohen v. Smith, 58 Fed. Appx. 139 (6th Cir. 2003).

III. Order

Accordingly,

IT IS ORDERED that Magistrate Judge Morgan's Report and Recommendation dated April 2, 2007 is hereby accepted and adopted.

IT IS FURTHER ORDERED that Defendants' motion for summary judgment is GRANTED.

Dated: August 31, 2007
Detroit, Michigan

s/Bernard A. Friedman_____
BERNARD A. FRIEDMAN
CHIEF UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document
was served upon counsel of record by electronic and/or first-class mail.

s/Carol Mullins
Case Manager to Chief Judge Friedman